

1915 1 2 100

A Brief for
Municipal Home Rule

AND

Digest of Proposals

SUBMITTED TO THE

Constitutional Convention of 1915

BY THE

Citizens Union of the
City of New York

CONTENTS

	PAGE
SCOPE OF DISCUSSION.....	1
CHARACTER AND EXTENT OF POWER GRANTED TO CITIES:	
Broad General Grant.....	2
Enumeration of Illustrative Particulars.....	3
Presumption	4
Adoption of Charters—Definition.....	4
Procedure for Securing Charters.....	5
Laws Superseded by Charters.....	7
PROTECTION TO CITIES AGAINST LEGISLATIVE INTERFERENCE:	
Prohibition of Special Local Laws.....	7
INTERESTS OF THE STATE PROTECTED:	
City Affairs Regulated by General Laws.....	8
State Affairs Regulated by Local Laws.....	9
STATE AND CITY PROTECTION AGAINST LOCAL ABUSES:	
Supreme Legislative Power to Make Certain Restrictions... 10	
Legislative Power to Regulate Industrial Conditions..... 10	
COUNTIES WITHIN A CITY TREATED AS CITIES.....	10
CONCLUSION	10
DIGEST AND ANALYSIS OF HOME RULE PROPOSALS.....	12
INDEX TO PROPOSALS.....	37

A BRIEF FOR MUNICIPAL HOME RULE

Submitted to the

Constitutional Convention of 1915

by the

Citizens Union of the City of New York

IN a preliminary brief already submitted the evils to be remedied have been pointed out and a general survey made of the essential nature of Home Rule.

Rejecting some of the extreme powers occasionally associated with Home Rule a few fundamental principles have been briefly classified under the heads of (a) Power, and (b) Protection—power to do whatever is necessary in the management of local affairs without special legislative consent; protection from interference with local affairs by mandatory special legislation.

In the discussion before the Cities Committee of the Convention, it has been suggested that the proposal for Home Rule is revolutionary. In point of fact it is not even novel.

The City of New York in 1830 adopted by popular vote its own charter, drawn by residents of the City elected as delegates to the City Convention of 1829. The English cities derived their corporate powers almost entirely from their ancient charters leaving all details of the government to the cities, and not from grant of Parliament.

In twelve states of the Union today constitutional local self-government is given to cities, and the Committee on Municipal Program of the National Municipal League, after a year's investigation, has recommended a constitutional grant of that power.

But even if the proposal were novel, this Convention should meet the demand for Home Rule. Bluntly put, if this Convention should not give heed to the reasonable demands of reasonable people for a reasonable measure of local self-government, the Constitution which it draws is likely to fail, and the way will be opened for those who advocate really revolutionary principles to claim that there must be a radical convention to carry through these extreme measures because a conservative convention will have shown itself

unwilling to further in any substantial degree the cause of municipal freedom.

We are frankly here seeking to impress upon the Convention that Home Rule is something that the seven millions of people living in the cities are determined to have.

We believe that there is no just reason why they should not have it, but we are urging that they get it from this Convention in a conservative and reasonable form.

The purpose of this memorandum is first, to develop particular points which should be embodied in a Home Rule provision, and, second, to analyze the specific proposals before the Convention, pointing out in what particulars each amendment meets or fails to meet fundamental requirements of Home Rule.

There are five heads under which the principles and proposals should be considered:

- A. The character and extent of power granted to cities.
- B. The protection of cities against legislative interference with local affairs.
- C. The protection of the interests of the state against curtailment of the power of the legislature.
- D. The protection both of the cities and of the state by proper restrictions to guard against abuses in city government.
- E. Other provisions.

A. THE CHARACTER AND EXTENT OF POWER GRANTED TO CITIES.

POINTS

I

The Constitution should contain a broad grant of general powers to municipalities.

A city of five million people is certainly an organism sufficiently developed to run itself. Why its officials should be enabled to evade responsibility by blaming their shortcomings or failures on interference by a legislature made up largely of members who have no knowledge of or interest in city affairs has never been made apparent.

That the state has a real interest in municipal affairs cannot be denied and that interest should be protected by provisions which will be hereafter considered, but, assuming that that protection is accorded, there is not and never was any valid answer to the proposition that a huge business organization like a modern city should

be permitted to run itself in a businesslike way free of outside interference.

The form of the grant should be broad and general. Any attempt at restrictive enumeration necessarily from the very nature of the case breaks down. The subject to be covered is too broad and too complex for enumeration, and there is no reason for restrictive enumeration.

What the city is entitled to is to manage its own affairs, always assuming, as will hereafter be made clear, that the state's interest is safeguarded.

The following proposals contain satisfactory broad grants of power:

O'Brian, Int. 280, Pr. 283.
Franchot, Int. 331, Pr. 335.
Eisner, Int. 553, Pr. 568.
Cobb, Int. 650, Pr. 698.

The following proposals contain inadequate grants of general power:

Mann, Int. 374, Pr. 381.
Weed, Int. 613, Pr. 629.
Fobes, Int. 689, Pr. 709.
Wagner, Int. 68, Pr. 68.
E. N. Smith, Int. 511, Pr. 523.

The remaining proposals fail to contain any *general* grant of power.

II

For purposes of enumeration merely, and not of restriction, the language of the grant of power should contain illustrative particulars.

Well drawn examples of this with slight differences in enumeration occur in the following proposals:

O'Brian, Int. 280, Pr. 283.
Franchot, Int. 331, Pr. 335.
Eisner, Int. 553, Pr. 568.
Franchot, Int. 662, Pr. 678.

Inadequate attempts or merely restrictive enumerations occur in the following proposals:

Low, Int. 313, Pr. 535.
E. N. Smith, Int. 511, Pr. 523.

The remaining proposals contain no enumeration of power.

III

It should be provided that municipalities are presumed to have such powers within the general grant as are not denied to them by the Constitution.

This does not mean that there is any presumption against the legislature; because the legislature will still have power to pass the general laws even affecting cities hereinafter referred to. In other words, the reversal of the existing presumption would not tend to decrease legislative power, but merely to increase municipal power.

It enlarges the content of the power of cities without decreasing the content of the legislative power to pass general laws. It thus increases the zone of common power in which, of course, the general law of the legislature must always be paramount, but it would tend very much to decrease the number of occasions upon which a city would be compelled to go to the legislature for power to do a purely local work.

The following proposals contain a provision requiring a liberal construction of powers:

O'Brian, Int. 280, Pr. 283.

Franchot, Int. 331, Pr. 335.

Other proposals contain nothing on this subject.

IV

Municipalities should have the power to adopt their own charters upon approval by the electorate.

The ordinary objection to this provision is that it involves government by town meeting. In fact, it involves no such thing.

Nobody dreams of suggesting that the people at the polls draw a charter. What is proposed is that machinery be established for the creation of a representative body which shall have the power to draw a charter and submit it to the people at the polls.

It is no more the drawing of a charter by popular vote than our Constitution is drawn by popular vote, because the Convention must submit it to the people.

If this fatuous argument be disposed of, what reason remains why the people of a city should not, through their own representatives, frame their fundamental local law?

Do the legislators from Watertown or Cohoes or Newburgh have that familiarity with the affairs of the great cities like Buffalo or New York which fit them to frame the fundamental law of these great cities better than the representatives of these cities them-

selves, and, on the other hand, have the legislators from New York and Buffalo and Rochester, used to dealing with larger affairs, that sympathy or acquaintance with the smaller but none the less vital needs of less populous cities which fit them to study and know their needs better than the representatives of these smaller communities themselves?

The statement of the proposition carries its own answer.

The following proposals clearly give the right to adopt and amend a charter:

O'Brian, Int. 280, Pr. 283.

Franchot, Int. 331, Pr. 335.

Eisner, Int. 553, Pr. 568.

Weed, Int. 613, Pr. 629.

Cobb, Int. 650, Pr. 698.

Franchot, Int. 662, Pr. 678.

The following proposals give that power to a limited extent:

Mann, Int. 374, Pr. 381.

Fobes, Int. 689, Pr. 709.

Wagner, Int. 68, Pr. 68.

Sanders, Int. 187, Pr. 187.

The other proposals have nothing on the subject.

NOTE: The term "charter" is here used in its colloquial sense as embracing provisions regulating the purely local concerns of a city; our position being that a city should be free to regulate all such matters for itself, subject to the provisions of the constitution and all laws enacted by the legislature.

V

There should be a self-executing provision for the drafting and adoption of charters by municipalities in addition to any method prescribed by general law.

Assuming, then, that the cities should have the power to frame their own charters, this power should be given by self-executing provisions in the constitution.

The cities should not be compelled to await legislative action to avail themselves of this beneficent constitutional right.

The legislature should have power to provide by general law for additional methods, but it is perfectly feasible and simple to draw a self-executing provision. As a suggestion, it might be provided that on petition of 5 per cent. of the electors the question of drafting a new charter be submitted at the next general election. At the same election delegates to draft the charter could be elected

conditionally upon the vote being in favor of the drafting of the new charter, in the same manner and from the same districts that members are elected to the local legislative bodies.

This method is not essentially the only one, but is suggested merely to show how an easy and compact provision could be inserted in the Constitution. The representative body thus elected would frame a charter and submit it to popular vote.

The same provision should apply to amendments to existing charters or to new charters.

We emphasize that there is nothing in such a plan which smacks of what is ordinarily known as the Initiative. It does not provide that any body of citizens may require the submission to popular vote of a particular proposition. It involves merely that a given number of citizens may require a vote upon the proposition to create a Convention which shall frame a charter and submit it to popular vote.

It is also suggested that the Constitution might well provide that any city charter thus drawn by a convention and approved by popular vote may itself contain provisions for amendment of the charter not inconsistent with the Constitution or general laws of the state. For example, a charter might well provide that amendments to it might be framed by the local legislative body and submitted to popular vote just as amendments to the Constitution are proposed by the legislature and submitted to popular vote.

The charter might properly go even further and empower the local legislative body not only to draft, but to adopt changes with respect to all the details of the city's government, so that the people will be required to vote only upon amendments affecting the foundations of the city government.

None of the proposals adopt the particular machinery for charter adoption here suggested. The following, however, have fairly satisfactory provisions:

O'Brian, Int. 280, Pr. 283.
Franchot, Int. 331, Pr. 335.
Eisner, Int. 553, Pr. 568.

Less satisfactory provisions are to be found in:

Weed, Int. 613, Pr. 629.
Cobb, Int. 650, Pr. 698.
Wagner, Int. 68, Pr. 68.
Franchot, Int. 662, Pr. 678.
Low, Int. 313, Pr. 535.

VI

The effect of a municipal charter so adopted or amended should be to supersede all previous law of a character which regulates local matters in a manner not permitted to the legislature under the powers reserved to it by the new Constitution.

This is a mere corollary from the preceding proposition.

The following proposals before the Convention contain provisions to this effect:

O'Brian, Int. 280, Pr. 283.
Franchot, Int. 331, Pr. 335.

The following proposals contain inadequate provisions of this nature:

Eisner, Int. 553, Pr. 568.
Franchot, Int. 662, Pr. 678.

Other proposals contain nothing on the subject.

B. THE PROTECTION OF CITIES AGAINST LEGISLATIVE INTERFERENCE WITH LOCAL AFFAIRS.

VII

Special legislation in regard to local affairs should be totally prohibited.

The legislature should not be permitted to pass laws interfering with the local government of a particular city.

This does not mean that the legislature cannot, as will be hereinafter pointed out, pass general laws affecting all cities alike, even though the effect of such laws is to interfere to an extent with the cities.

This much interference the cities must and should brook, but if a matter is so local in its nature that it cannot be covered by a general law affecting all cities alike the legislature should keep its hands off.

If the matter is of sufficient importance to be legislated on for all cities alike, then the legislature should have the absolute right to act.

This is the only restriction upon legislative power that the advocates of reasonable Home Rule ask.

The following proposal contains satisfactory prohibitions against the enactment of special local laws by the legislature:

Franchot, Int. 331, Pr. 335.

The Low amendment, Int. 313, Pr. 535, apparently contemplates a similar prohibition, but its effectiveness in this regard is open to doubt.

The O'Brian amendment, Int. 280, Pr. 283; Eisner, Int. 553, Pr. 568; Franchot, Int. 662, Pr. 678, in our judgment, go too far in this respect in requiring that all general laws must affect the whole state alike.

We think that the legislature should have the right to legislate over all cities and not be required to legislate over all cities, villages and rural communities alike.

The following proposals contain no adequate restriction upon legislative interference:

Mann, Int. 374, Pr. 381.

Weed, 613, Pr. 629.

Wagner, Int. 68, Pr. 68.

E. N. Smith, Int. 511, Pr. 523.

The following proposals, although containing a prohibition against special legislation, render it nugatory by permitting classification of cities:

Cobb, Int. 650, Pr. 698.

Fobes, Int. 689, Pr. 709.

Sanders, Int. 187, Pr. 187.

Green, Int. 655, Pr. 671.

C. THE PROTECTION OF THE INTERESTS OF THE STATE AGAINST CURTAILMENT OF THE POWER OF THE LEGISLATURE.

VIII

The amendment should specifically provide for the power of the legislature to regulate the affairs of cities by general city laws applying alike to all cities of the state.

This would fully protect the power of the state to regulate any matters even of an essentially local nature which became of state importance by demanding universal treatment for all cities of the state alike.

The objection is urged that there would be an overlapping of power.

This is a fact but not an objection.

Our whole system of municipal, state and national government is made up of a series of such overlapping powers. They are in-

herent in our system of democracy, and the form of overlapping that is here created involves no hardship.

The power of the legislature is paramount where it fairly passes a general law applicable to all cities alike. Where it fails to pass such laws the powers of the cities are supreme.

It may be urged that litigation would arise in respect to the delimitation of power. The answer is that litigation must always ensue to some degree from the constitutional apportionment of powers. The conflict would be no greater than that constantly arising between a general and a local law or between an act of the legislature and a local ordinance.

The possibility of litigation is here reduced to a minimum and a definite and workable system of local administration is created.

The following proposals do not allow the legislature to pass even general city laws:

O'Brian, Int. 280, Pr. 283.

Eisner, Int. 553, Pr. 568.

Franchot, Int. 662, Pr. 678.

The following proposals, though forbidding special laws, permit general city laws:

Franchot, Int. 331, Pr. 335.

Low, Int. 313, Pr. 535.

The remaining proposals do not forbid even special laws, and hence *a fortiori*, permit general city laws.

IX

Power should be expressly reserved to the legislature to pass laws local in application when they affect matters of state concern as distinguished from matters of a local nature.

This provision should be inserted in order to make abundantly clear that the prohibition against special legislation only applies to purely local matters. It is self-evident, for example, that the legislature should have power to pass an emergency quarantine measure applying to one locality or city if necessary.

The following proposal contains such a provision:

Franchot, Int. 331, Pr. 335.

Other proposals do not contain it expressly, but it may well be urged that this power still remains to the legislature in the absence of an express prohibition, since the only power given to the cities is over matters of local as opposed to state concern.

D. THE PROTECTION BOTH OF THE CITIES AND OF THE STATE BY PROPER RESTRICTIONS TO GUARD AGAINST ABUSES IN CITY GOVERNMENT.

X

There should be preserved to the legislature its supreme power to restrict the power of municipalities in regard to taxation, debt limit, borrowing money, extending credit and the like exactly as in the present Constitution with the simple proviso that restriction should be required to be made by general law applicable alike to all cities.

XI

The present power of the legislature to regulate and fix wages, hours of labor, etc., of wage earning employees of a municipality or of a contractor should be retained but should not be inserted in this part of the Constitution.

There is no reason why there should be special laws on this subject affecting municipalities or municipal contractors.

The whole subject could be logically treated in connection with workmen's compensation laws and kindred matters.

E. OTHER MATTERS.

XII

Counties lying wholly within a city should be treated as cities.

Failure to enact this provision would be to nullify Home Rule as to a city like New York.

The last three points, together with some not stated, are discussed with reference to the various proposals in the appendix hereto.

CONCLUSION

The foregoing is an attempt at a specific statement of what cities have a right to expect and what they have a right to demand from the convention.

We believe that in drafting an amendment it should not be forgotten that it is the municipal government which to the ordinary man represents most of the government which affects his life. More than seven millions out of the ten millions population of this state reside in cities. The things that primarily concern them

are whether their streets are clean, whether their cities are policed properly, and whether their taxes are reasonable.

These matters are all functions of the municipal government and the power and responsibility for their proper functioning must be lodged in the municipal government.

We believe that we are speaking for these millions when we urge upon the Cities Committee that it draft an amendment which shall carry into effect the essential principles herein set forth.

For an appendix to this brief we submit a detailed analysis of each proposal that has been introduced into the Convention.

We hold no brief for any one of the proposals and we assume that the Committee will in its final analysis draft its own proposal, but we earnestly urge upon the Committee a careful consideration of the Franchot Proposal, Int. 331, Pr. 335, as containing the basis upon which the committee can most effectively work. It is less extreme than the O'Brian Proposal, Int. 280, Pr. 283, in that it gives the legislature the right to pass general laws affecting cities only. It shows careful draftsmanship, and although it lacks some of the provisions herein contended for, it is in the main moderate and comprehensive.

It is earnestly urged that its provisions be made the subject of careful study by the Committee on which rests the grave responsibility of according to the cities of this state the power of self-government.

Respectfully submitted,

Citizens Union of the City of New York

WM. JAY SCHIEFFELIN, *Chairman*
W. E. YOUKER, *Secretary*

June 29, 1915.

Committee on Constitutional Convention

LAURENCE ARNOLD TANZER, *Chairman*.

EVERETT V. ABBOTT,	MANSFIELD FERRY,	MAX LOWENTHAL,
WALTER T. ARNDT,	HENRY W. HARDON,	ROBERT McC. MARSH,
ALBERT S. BARD,	ROBERT LOUIS HOGUET,	JOSEPH M. PROSKAUER,
EMORY R. BUCKNER,	THOMAS CATESBY JONES,	EUSTICE SELIGMAN,
JULIUS HENRY COHEN,	NICHOLAS KELLY,	GEORGE STOVER,
WILLIAM E. COLLINS,	CLARENCE M. LEWIS,	JAMES A. TAYLOR,
ALFRED C. COXE, JR.,	SAM A. LEWISOHN,	FRANK B. WILLIAMS,
	WALTER LINNEN,	

APPENDIX

Digest and Analysis of Home Rule Proposals Before Constitutional Convention of 1915

The proposals should be considered principally with reference to:

- A. The character and extent of power granted to cities.
- B. The protection of cities against legislative interference with local affairs.
- C. The protection of the interests of the state against curtailment of the power of the legislature.
- D. The protection both of the cities and of the state by proper restrictions to guard against abuses in city government.
- E. Other provisions.

1. O'BRIAN, Int. 280, Pr. 283.

This is the proposal of the Mayors' Conference.

A. Each city is granted "full power to regulate matters relating to its property, affairs and government and to exercise full powers of local self-government" (p. 1, 1.5 to 7).

The phrase "the property, affairs or government of cities" is the same phrase now used in Article 12, Section 2, of the constitution, to describe local municipal affairs, and is a phrase which has to some extent received judicial interpretation.

The nature and extent of the power granted is indicated, though not limited, by the list of subjects for municipal legislation, referred to below.

The power is "subject to this constitution and the general laws enacted by the legislature for the government of the state at large applicable in terms and in effect to the entire state" (p. 1, 1.2 to 4). This would limit the powers of cities only by uniform state-wide laws, and should be considered in connection with the provisions dealing directly with the power of the legislature.

The former rule of strict construction of municipal powers would be converted into a rule of liberal construction by the provision that "The powers hereby conferred shall be liberally construed and no enumeration of powers contained in this constitution or in any law shall be deemed to limit or restrict the general grant of powers hereby conferred" (p. 2, 1.11 to 14). This does not mean that the powers of cities cannot be restricted, but only that the mere enumeration of certain powers shall not by itself operate to destroy or exclude other powers not expressly withheld. The limitations on the powers of the legislature over cities are contained, not in this clause, but in other provisions expressly dealing with the powers of the legislature.

Cities are given power to adopt and amend new charters and to amend existing charters, by a broad grant of "power to draft, adopt and amend laws relating to" the following matters:

the local affairs and property of the city;
the powers, duties, qualifications, appointment, number, terms of office, compensation and method of removal of all officers and em-

ployees whose compensation is paid directly or indirectly out of the city treasury, other than justices of courts of record;
the transaction of the city's business;
the incurring of its obligations;
the presentation, ascertainment and discharge of claims against it;
the acquisition, care, management and use of its streets and its property, including public utilities;
the government and regulation of the conduct of its inhabitants and the protection of their property, safety, health, comfort and general welfare (i. e., the local police power) (p. 1, 1.7, to p. 2, 1.9).

Laws so adopted are to be known as "Local Municipal Laws" (p. 2, 1.9 to 11).

The method of preparing such laws is left entirely to the legislature (p. 2, 1.19 to 21); and the legislature is required to provide, by general law applicable to all cities, adopted at its next regular session, for carrying into effect the provisions of the amendment (p. 3, 1.6 to 8).

Pending action by the legislature, the amendment is made self-executing by a grant of power to the mayor of any city to appoint commissioners for the purpose of drafting local municipal laws which shall, after notice of publication in such manner as the mayor shall direct for a period of not less than three months, be submitted to the electors of the city for adoption at a special election (p. 3, 1.9 to 20).

Except for the interim provision, no power is granted either to the people of the city or to city officials to decide whether a charter or other municipal law shall be drafted or submitted, nor is it provided whether the drafting shall be by elected convention or appointed commission or by other authority—all these things are left entirely to the legislature, subject only to the requirement that the act of the legislature shall be a "general law applicable to all cities" (p. 3, 1.7).

It is provided, however, that every local municipal law must be adopted by the electors of the city after publication for at least three months (p. 2, 1.21 to 24).

This does not mean, however, that no amendment can be made with respect to any matter covered by a local municipal law except by vote of the people. It is provided that "A local municipal law may delegate to officers or official body of the city power to regulate by ordinance, resolution or by-law any matter which may be the subject of a local municipal law" (p. 3, 1.3 to 5). The body of local municipal laws adopted by the people of the city will be the constitution of the city and subject to its provisions the local legislative body will have such powers of local legislation as it confers.

The effect of local municipal laws when adopted is to "supersede and repeal, so far as the city adopting it is concerned, all inconsistent provisions of any law other than general laws enacted by the legislature for the government of the state at large and applying in terms and in effect to the entire state" (p. 2, 1.24, to p. 3, 1.3).—I. e., local municipal laws supersede all inconsistent laws except those which the legislature retains power to enact, as set forth below.

B. The legislature is prohibited from passing any law "relating to the property, affairs or government of cities" (p. 4, 1.7 and 8). That is to say, no bills can be passed affecting cities only, even though they are uniform as to all cities, and even though they deal with a matter of state concern, if they

in any way relate to the property, affairs or government of cities; but all laws of that kind must be laws "for the government of the state at large applying in terms and in effect to the entire state" (p. 4, l. 11 and 12), which either means that they must apply uniformly to the Adirondack Mountains and to the City of New York or else it means nothing at all.

Exceptions to these restrictions are, that the legislature may enact "laws applying alike to all cities transferring additional and further powers to cities" (p. 4, l. 12 to 14); it shall "by general laws applicable to all cities vest in the cities the power to assess and collect taxes" for local purposes (p. 4, l. 22 and 23); and it may "by general laws applicable to all the cities of the state, regulate the matter of conducting the election of city officers" (p. 5, l. 5 to 7). From the difference in language employed it would appear that laws of the first class must be uniform, but that laws of the second and third classes need not be.

A further restriction prohibits the legislature from imposing upon cities or the inhabitants thereof taxes for local purposes, but requires it to vest in the cities, by general laws as indicated above, the power to assess and collect taxes for such purposes (p. 4, l. 19 to 23).

The existing classification of cities is abolished. It is purely arbitrary; it has no place in a scheme which requires uniform legislation; and it could serve, as it has served in the past, only as a means of evading the requirement of uniformity.

C. The powers of the state legislature over matters of state concern are not safeguarded by any express provision. As the entire article deals only with legislation relating to the property, affairs or government of cities, legislation on other subjects is, of course, not affected. Matters of state concern which relate to the property, affairs or government of cities, can be regulated, as pointed out above, probably only by uniform state-wide law. This would seem to make it impossible to legislate effectively over matters of state concern relating to the property, affairs or government of cities, which do not come within the power of the municipalities and yet require different treatment in urban as compared with country districts.

D. The present provision of Article XII, section 1, making it the duty of the legislature to restrict cities with reference to "their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations," is repealed.

The present provision in the same section, authorizing the legislature to "regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the state, or by any contractor or sub-contractor performing work, labor or services for the State, or for any county, city, town, village or other civil division thereof" is retained, with the proviso that such regulation must be by "general laws applicable in terms and effect to the entire state" (p. 3, l. 26, 21, 22).

E. Other provisions are:

A county lying wholly within a city is deemed a part of the city for the purposes of the amendment, "except as in this constitution otherwise provided" (p. 2, l. 14 to 18).

Villages are given the same powers as cities, subject to the power of the legislature "by general laws, which shall in terms and in effect apply to all villages, [to] limit or restrict the powers of villages" (p. 4, l. 15 to 18).

The organization of villages, the incorporation of new cities, and the annexation or separation of territory, are to be regulated by the legislature "by general laws applicable in terms and in effect to the entire state" (p. 3, l. 21 to 26).

This proposal is good. It gives cities broad and also specific powers over local affairs, including the right of charter-making; it contains a partially self-executing provision; it abolishes classification of cities and forbids special laws; it is, however, too extreme in forbidding the legislature to pass laws uniformly affecting local matters of all cities and leaving it only the power of passing laws applying to the entire state.

2. FRANCHOT, Int. 331, Pr. 335.

This is the Municipal Government Association's proposal. Many of its provisions are the same as those of the O'Brien amendment; and so far as these are concerned a mere reference will suffice.

The broad, general grant of power is made in the same terms (p. 1, l. 4 to 8).

The nature and extent of the power is in like manner indicated, but not limited, by the list of subjects for municipal legislation.

The power is granted "subject to this constitution and the laws of the state" (p. 1, l. 8 to 9)—i. e., to all the laws validly enacted, which means all the laws that the legislature is not prohibited from passing by some express provision of the constitution.

The same rule of liberal construction is enacted (p. 1, l. 9 to p. 2, l. 1).

Cities are given power to adopt and amend new charters and to amend existing charters, by a similar broad grant of power to adopt and amend local laws "providing for the exercise of the powers granted by this constitution or by the laws of the state and relating to" a list of subjects the same as in the O'Brien amendment and described in substantially the same language, and in addition thereto the following:

the manner of conducting elections of elective city officers; the wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or sub-contractor performing work, labor or services for the city (p. 2, l. 4 to 22).

These laws are likewise to be designated as local municipal laws, it being expressly stated that this designation is given "to distinguish them from local laws passed by the senate and assembly" (p. 2, l. 22 to 24); for this proposal, unlike the O'Brien amendment, permits, as stated below, the enactment of such legislation regarding matters of state concern.

The method of preparing local municipal laws is left to the legislature to prescribe, and the legislature is required to provide by general law adopted at its next session for carrying into effect the provisions of the amendment (p. 4, l. 8 to 10); but, in order to insure an effective execution of these provisions, the principles which such legislation must follow are laid down, as follows:

The people of the city shall have the right, on petition of so many as the legislature shall require, to decide whether they want a charter drafted and if so whether it shall be drafted by elected convention or by locally appointed commissioners or by a combination of the two (p. 3, l. 2 to 9).

If no such petition is filed, the local officers may direct the drafting, with or without a preliminary vote of the people, as the legislature may prescribe (p. 3, l. 9 to 17).

The drafting of local municipal laws must in every case be in the hands of some responsible body elected by the people of the city at a special election by non-partisan ballot or appointed by the local authorities (p. 2, l. 25 to p. 3, l. 2).

The provision for the adoption of local municipal laws by the people of the city is the same as in the O'Brian amendment (p. 3, l. 17 to 20).

The same distinction is made between the power of the people to adopt their own local constitution and the power delegated by them to the local legislative body to amend or change by ordinance the local law applicable to the city (p. 3, l. 24 to p. 4, l. 4). In order to make the distinction more clear, it is provided that "the drafting and adoption of such ordinances, resolutions, or by-laws shall be regulated by law and the provisions of this article regarding the drafting and adoption of local municipal laws shall not be applicable thereto" (p. 4, l. 1 to 4).

Local municipal laws must be "not inconsistent with the constitution and general laws of the state" (p. 2, l. 5 and 6), meaning of course such general laws as the legislature has power under the provisions of the constitution to adopt. Their effect when adopted is to supersede and repeal, so far as the city adopting it is concerned, "all inconsistent provisions of any law other than general laws applying alike to all cities" (p. 3, l. 20 to 23). This means all provisions of such laws enacted before the adoption of the new constitution, because, as will be seen, no special or local laws relating to local affairs can thereafter be enacted by the legislature.

B. The legislature is prohibited from passing any law relating to the property, affairs or government of cities "which shall be special or local either in its terms or in its effect, but all laws hereafter passed relating to the property, affairs or government of any city * * * shall be general laws and shall in terms and in effect, apply alike to all cities * * *" (p. 4, l. 11 to 18). All state legislation relating to purely local municipal affairs must be by uniform city law; but it need not be as under the O'Brian amendment, by uniform state-wide law. The legislature is left free to discriminate between cities and other parts of the state.

The classification of cities is abolished: All acts of the legislature, if local in character, must be by uniform city laws; if dealing with matters of state concern, they may be in any form, without reference to arbitrary classes.

C. The powers of the state legislature over matters of state concern are expressly safeguarded by the following:

"The provisions of this article shall not be deemed to restrict the power of the legislature to regulate matters of state concern as distinguished from matters relating to the property, affairs or government of cities or villages" (p. 5, l. 9 to 12). Acts of the legislature dealing with such matters of state concern not purely local in their nature, may be in any form, general or special, even though they be made purely local in their application.

D. The present provision above referred to making it the duty of the legislature to restrict cities with reference to their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, is retained, with the proviso that the power must be exercised by uniform city laws.

The other provision, empowering the legislature to regulate conditions of employment of employees of cities or their contractors or sub-contractors, is repealed. As to cities, the power to regulate these matters locally is to be exercised by local municipal laws; or it can be exercised by uniform city laws adopted by the legislature. If an express provision concerning the regulations of these matters with regard to the state or other divisions of the state is to remain in the constitution, it should be elsewhere than in the article dealing with cities.

E. A county lying entirely within a city is deemed a part of the city for the purposes of the amendment, "except as in this constitution otherwise provided" (p. 4, l. 4 to 8).

Villages are given the same powers as cities, subject to the power of the legislature "by general laws, which shall in terms and in effect apply to all villages," to limit or restrict their powers (p. 2, l. 1 to 3).

The organization of villages, the incorporation of new cities and the annexation or separation of territory, are to be regulated by the legislature by uniform city or village laws (p. 4, l. 24 to p. 5, l. 2).

This proposal differs from the preceding in that it permits the legislature to pass laws relating to local matters if they affect all cities uniformly, and in that it expressly gives the legislature power to pass laws of local application if affecting matters of State as contrasted to local concern. It resembles the preceding in granting cities broad and also specific power over local matters, including charter-making; in forbidding special laws and classification of cities, and in containing a partially self-executing provision.

This is the best proposal presented.

3. MANN, Int. 374, Pr. 381.

A. This contains the following general grant of power: "Cities created under this article shall have all other and full powers of regulating and governing all their affairs—within their respective boundaries—not expressly forbidden by this constitution" (p. 2, l. 2 to 5).

There is no further language to indicate the intended scope of this broad grant of power. As there is no attempt to show what are the "affairs" of cities which they are given power to regulate, the amendment might be construed as leaving it to the legislature to define and limit what shall be considered as the affairs of cities.

Whatever the limits of the power granted, the language used would undoubtedly require a liberal construction as to the extent of the power within those limits.

It is very doubtful whether the power is granted to cities to adopt or amend their own charters. The language is open to the construction that cities may regulate their own affairs according to such form of organization and procedure as may be prescribed by the legislature, i. e., under special charters, as heretofore.

No method whatever is provided for exercising the powers granted. The grant of power is to the city, not to its people nor to its officials. Unless and until the legislature acts there will be no instrumentality by which the power can be exercised, and when it acts the exercise of the power must be subject to the conditions and methods of procedure prescribed by the

legislature; consequently the effectiveness of the grant depends entirely upon the will of the legislature.

The effect of any act of a city under the power granted is not prescribed, but all such acts are either subject to present and future acts of the legislature; or else some attempt must be made to harmonize inconsistencies by applying some rule not laid down in the constitution.

B. and C. The power of the legislature is not in any way restricted, except in so far as the grant of power itself may be construed as operating to restrict it.

D. The existing power of the legislature to regulate conditions of employment is repealed.

E. Counties and villages are not affected.

This proposal has a general but no detailed grant of power; it does not clearly give the right of charter-adoption; it is not self-executing; there is no express limitation of any kind on the legislature to prevent its passing special local laws.

4. EISNER, Int. 553, Pr. 568.

A. The grant is of "full and exclusive power to regulate matters relating to its own property, affairs and government and to exercise full powers of local self-government" (p. 1, l. 4 to 6).

This power would, however, appear to be limited by the provision immediately following: "and, to that end, shall have power to adopt and amend its charter and enact ordinances, resolutions or by-laws relating to" a list of matters referred to below (p. 1, l. 7 and 8).

The rule of liberal construction would not prevent such limitation. It is: "The powers hereby conferred shall be liberally construed; and no enumeration of powers contained in any law shall be deemed to limit or restrict the general grant of powers hereby conferred" (p. 2, l. 7 to 9). By implication, the enumeration of powers in the constitution itself would be deemed to restrict the general grant of power.

Cities are given power to adopt and amend new charters and to amend existing charters (p. 1, l. 7 and 8; p. 3, l. 25 and 26).

The list of matters to be embraced in the charter or "ordinances, resolutions or by-laws" is substantially the same as in the O'Brien amendment with slight differences in description and extent of powers.

The exercise of the local police power is "subject to this constitution and the general laws enacted by the legislature for the government of the state at large" (p. 2, l. 3 and 4). The other powers are not so qualified.

The method of procedure is prescribed, making the amendment self-executing.

The question of drafting a new charter is raised by two-thirds vote of the local legislative authority or by petition of ten per cent of the electors (p. 2, l. 11 to 15).

The question is decided by vote at the next regular municipal election, when the vote is on the question whether a commission shall be chosen to frame a charter and at the same time on the choice of commissioners for that purpose (p. 2, l. 14 to 20). No notice of or time preceding the election is required except as is implied from the provision that nominating petitions for candidates for commissioner shall be filed at least thirty days before the election (p. 2, l. 21 to 24).

Fifteen commissioners are elected, nominated by petition of at least 2 per cent of the electors, 1,000 signatures, however, being sufficient in any case, and upon non-partisan ballot (p. 2, l. 18, to p. 3, l. 7).

The commissioners must frame a charter and complete it and distribute it among the electors in time to hold an election upon it at least thirty days thereafter and within one year from their election (p. 3, l. 7 to 14). Alternative provisions may be voted upon separately (p. 3, l. 14 and 15).

The charter and alternative provision are to be adopted by a majority of the electors voting thereon (p. 3, l. 15 to 17).

The charter when adopted must be certified to the Secretary of State, who shall file it and publish it as an appendix to the Session Laws (p. 3, l. 20 to 24).

Amendments to such a charter or to an existing charter may be framed and submitted in like manner; they may also be proposed directly by two-thirds of the local legislative authority or by petition of 10 per cent of the electors, and in such case submitted at the next regular November election,—apparently this means at the next regular November election after opportunity for distributing the amendments thirty days previously, because such distribution is expressly required (p. 3, l. 25, to p. 4, l. 5).

Probably a distinction is intended between a "charter" and "ordinances, resolutions or by-laws" to be adopted by a city. The method for adopting a charter or amendment thereto is prescribed as above. No method is expressed for adopting "ordinances, resolutions or by-laws," but presumably the method for adopting them and the authority to pass them is to be determined by the charter itself.

A new charter, when adopted, "shall become the organic law of such city at such time as may be fixed therein, and shall supersede any existing charter and all laws affecting the organization and government of such city which are in conflict therewith" (p. 3, l. 15 to 20). The matters over which the city is given power to legislate are more extensive than those "affecting the organization and government of such city"; and it would seem that the laws which may be superseded by local legislation should not be confined to laws of that class.

B. The restrictive provision is: "The legislature shall not pass any law relating to the property, affairs or government of cities * * *"; but the provisions of this article shall not be deemed to restrict the power of the legislature to enact laws providing for the government and regulation of the conduct of the inhabitants of the state at large and for the protection of their property, safety, health, comfort and general welfare" (p. 4, l. 13 to 20).

This must be read with the provision that the power granted to cities shall be "full and exclusive" power (p. 1, l. 4 and 5).

This would operate to prohibit not only special or local legislation, but also uniform city laws, and even state-wide laws, as to matters relating to the property, affairs or government of cities, unless they come within the sphere of the police power.

C. The only safeguard for the powers of the legislature as to legislation affecting cities is the reservation of the police power mentioned above.

D. No power to restrict cities is retained in the legislature.

E. The powers granted to cities are not made to extend over counties lying wholly within cities, but the prohibition against legislative regulation of municipal affairs extends to such counties (p. 4, l. 13 to 15); so that no way seems open of legislating for such counties.

Villages are given the same powers as cities, without qualification or restriction.

No provision is made for the organization of villages, the incorporation of new cities, or the annexation or separation of territory.

This proposal gives the city almost full powers both general and specific, and it is self-executory; however, it goes too far in prohibiting the legislature from passing even uniform city laws as to local matters.

5. WEED, Int. 613, Pr. 629.

A. This provides that every city shall "possess and retain all the powers which now are or hereafter may be vested in them by general or special laws" (p. 2, l. 3 to 6).

This grant is "subject to this constitution and the general laws of the state" (p. 2, l. 4). A general law is any law which is general in its terms, even though in its effect it operates only in one locality. Consequently, the grant of power, though couched in general language, would give only such power as the legislature might from time to time see fit to grant to or retain in a city, i. e., there is really no effective constitutional grant of power at all.

No liberal construction of powers is provided for.

Every city is authorized for the exercise of such powers, granted as aforesaid "to amend or add to its charter, which shall be deemed to be, and defined as, its local municipal law, by the enactment of other local municipal laws" (p. 2, l. 6 to 9). To what extent or for what purposes a city may amend or add to its charter is not indicated, except that it must be for the further exercise of such powers as the legislature chooses to confer.

The "local municipal law," so defined, is to be drafted by the legislative body of the city, with the approval of the mayor, if there be one (p. 2, l. 9 to 13).

It is to be submitted to the electors for adoption at a special election on such notice by publication as the local legislative body, with the approval of the mayor, if there be one, prescribes, and is to be adopted "by a majority vote" (p. 2, l. 13 to 23).

The method of further amendment may be prescribed by a local municipal law (p. 2, l. 9 and 10).

No express distinction is made between local municipal laws so adopted and ordinances.

A local municipal law, so adopted, is to "become the local municipal law of the city" (p. 2, l. 14); but will apparently be subject to all acts of the legislature and to repeal by the legislature at any time.

B. and C. No restrictions are imposed upon the power of the legislature. The present classification of cities and provisions for special city bills are retained.

D. All existing powers in the legislature to restrict municipalities are retained.

E. The amendment does not affect counties or villages.

The organization of cities and villages is left entirely in the hands of the legislature, as at present.

No provision is made regarding the annexation or separation of territory.

This proposal falls utterly to either grant the city any powers or to restrict the legislature in any way.

6. COBB, Int. 650, Pr. 698.

A. Each city is granted "all the powers pertaining to its affairs, property, government and other matters necessary or proper for the protection or promotion of its interests not forbidden by or inconsistent with the provisions of the constitution or laws of the state, but the legislature, subject to the restrictions of this article, may take away any power granted by this section as it shall deem best" (p. 4, l. 16 to 22).

There is no further language to indicate the nature and extent of the power intended to be granted.

The language employed seems calculated to call for a liberal construction.

"Each city may frame and adopt or amend a charter or general fundamental law or laws for its government" (p. 1, l. 9 to p. 2, l. 1). This gives power to adopt and amend a new charter, but not to amend an existing charter.

There is nothing to indicate what such a charter may contain.

The method of adopting a charter is left to the legislature by a general law or laws applicable to all cities; but if the legislature does not provide therefor at its next regular session, the local legislative body may do so (p. 2, l. 5 to 13). The legislature or, failing action by it the local legislative body, is left free to provide for the adoption of a charter in any way it sees fit. Under this provision, the local legislative body or the mayor might adopt a charter by proclamation without consulting the people of the city.

The effect of the charter when adopted is not stated. As its provisions must not be "inconsistent with the constitution of the state, or the general laws of the state, or any special city law which the legislature is authorized to enact by this article" (p. 2, l. 3 to 5), the powers granted to cities are in all respects subject to control by the legislature by law general in its terms, though not uniform as to all cities, and even to special city laws in the cases referred to below, and it would seem doubtful how far the locally adopted charter would operate to supersede any existing act of the legislature.

The legislature may grant additional powers (p. 4, l. 23 to 26).

B. and C. The only restriction on legislative power is: "The legislature shall not enact any special city law relating to the property, affairs or government of any single city in the exercise of its purely local municipal functions, but it may enact a special city law or laws relating to a single city in the exercise of its state or governmental functions, but no special city law shall be enacted where a general city law can be made applicable" (p. 2, l. 20 to 25). This would permit any law at all which applied to more than a single city, and would permit laws relating to a single city alone unless they regulate its "purely local municipal functions," and even then if it relates to its exercise of "state or governmental functions."

The classification of cities is abolished; and the check of the suspensive veto on special city laws is removed (p. 2, l. 26 to p. 4, l. 15).

D. The power to restrict cities in relation to taxation, borrowing money, etc., is retained with the proviso that this must be done by "general laws applicable alike to all cities" (p. 1, l. 7 to 9).

The power to regulate conditions of employment is retained, but must be exercised "by general law" (p. 2, l. 13 to 19).

E. The powers granted to cities are extended over counties lying wholly within cities "except as this constitution otherwise provides" (p. 5, l. 21 to 24).

Villages are included in the general grant of power, but not in the power

to make laws, and the restrictions on special legislation are not applicable to villages.

The existing provision for the organization of cities and villages is retained, but must be carried out by general laws applicable alike to all cities or to all incorporated villages (p. 1, l. 7 to 9).

No provision is made for the annexation or separation of territory.

This proposal gives the city general but no specific powers, and restricts the legislature only to a slight extent even as to local matters.

7. FOBES, Int. 689, Pr. 709.

A. The grant of power is: "The cities of the state shall have authority to exercise all remaining powers of local self-government" (p. 3, l. 23 and 24).

The word "remaining" presumably indicates whatever is not covered by act of the legislature.

There is no further indication of the extent of the power except with reference to laws to be adopted as stated below.

Except as above stated there is no rule of liberal construction.

The only charter or lawmaking power is as follows: "Their several legislative bodies may enact laws with respect to their property and affairs, in so far as such laws shall not be forbidden by, or in conflict or inconsistent with this constitution or the laws of the state as from time to time enacted" (p. 3, l. 24, to p. 4, l. 2). This does not authorize cities to make laws with respect to their government, but only with respect to their property and affairs; nor does it in terms give any grant of a local police power.

The method of preparing such laws is not prescribed, except that they shall be adopted by the legislative body of the city. The people of the city are given no voice.

The effect of such laws is not stated and they will be subject to such laws as the legislature may choose to enact.

B. and C. The existing classification of cities is retained. The definition of general city laws and special city laws and the suspensive veto are abolished, and in place thereof is the following: "The legislature may enact laws with respect to cities, their government, property and affairs; but any such law must relate and its provisions apply uniformly to all cities of one or more classes" (p. 3, l. 20 to 23).

D. The provisions of section one are retained unchanged.

E. The counties and villages are not provided for; and the existing provision for the organization of cities and villages is retained.

This proposal fails to enumerate the powers granted, gives only a limited charter making power with no self-executing provision; and allows the legislature to pass laws affecting local matters of cities of a class.

8. WAGNER, Int. 68, Pr. 68.

A. The grant of power is as follows: "The people of every city and incorporated village shall have the power to organize their own municipal government and to administer the same for municipal purposes" (p. 2, l. 5 to 7). This grant by its terms extends only to organization and admin-

istration of the government—i. e., to the form of the government, and does not give any general power of local self-government.

This power is "subject only to such general laws as the legislature may enact" (p. 2, l. 8 and 9)—i. e., to all legislation not in its terms special or local.

As no rule of liberal construction is provided for, the power granted would probably be strictly construed.

Whether the "power to organize their own municipal government" is to include the power to frame a new charter, to amend it, or to amend an existing charter, is not expressly stated; but it is provided that "the legislature shall pass a general law providing for the organization of their municipal governments by the people of all cities and incorporated villages, and for the preparation and adoption by the municipal authorities of cities or incorporated villages of bills for new municipal laws, and bills for the amending or repeal of such existing laws, and for the submission of such bills to the people of the cities or villages to be affected thereby, at general elections, for the approval or disapproval of the elections thereof" (p. 2, l. 15 to 23).

It is not provided what subjects may be dealt with in such bills.

The method of preparing such bills is left entirely to the legislature; but it would appear that they are to be prepared and adopted by the local authorities, that they are to be submitted to the people of the city at a general election for approval or disapproval, and that they shall not affect existing laws until voted for by a majority of the electors voting at such election (p. 2, l. 9 to 23). It is not stated whether the vote of the people is to be before or after the adoption by the local authorities. The provisions of the amendment will apparently not be effective unless and until the legislature acts.

The effect of such a bill when adopted is not stated, nor its relation to acts of the legislature, excepting as the provision making the power, subject to the general laws of the state would indicate that local bills are at all times subject to amendment or repeal by the legislature.

B. The legislature is prohibited from passing "any special or local bill affecting the municipal government of a city or incorporated village" (p. 1, l. 10; p. 2, l. 1). This appears to apply only to the form of organizing the city government, and to permit special or local legislation on all other subjects, and to permit legislation even on that subject which is local in its effect, provided only that it is general in its terms.

There is also a provision against filling municipal offices otherwise than by local election or appointment (p. 2, l. 1 to 5), which is in substance merely a repetition of the prohibition in Article X, Section 2 of the present constitution.

The present classification of cities is retained (p. 3, l. 7 to 12); but the suspensive veto is abolished (p. 3, l. 12 to p. 4, l. 23); so that, subject to the exception mentioned above, the legislature is left free to pass special and local legislation without even the check provided at present.

D. The present powers of the legislature to restrict the activities of the cities are retained (p. 1, l. 3 to 8; p. 2, l. 23 to p. 3, l. 4), with the proviso that restrictions on the power of taxation, borrowing, etc., must be by "general laws applicable alike to all cities" (p. 1, l. 8 to 9).

E. Counties within cities are not provided for.

Villages are placed on the same footing as cities.

The organization of cities and villages is left in the hands of the legislature as at present, with the proviso that it is to be provided for by "general laws applicable alike to all cities or to all incorporated villages" (p. 1, l. 3 to 9).

This proposal gives the city general but no specific powers; and it imposes even a less check on special laws than is in the present constitution.

9. FRANCHOT, Int. 662, Pr. 678.

A. No power is granted to cities unless they first adopt their own charters; and then the power is limited to what is put in the charter; there is no general grant of the power of local self-government.

Cities are given power to adopt and amend new charters, but not to amend their existing charters.

The grant of power is: "to draft and adopt a charter for its own government not inconsistent with this constitution" (p. 5, l. 6 to 8).

It is not stated in a general way what such charter shall contain; but it is provided that every such charter "may, among other things," provide for matters specifically enumerated (p. 5, l. 10 to 13). What are the "other things" that may be included, is in no way indicated.

A rule of liberal construction is provided as follows: "This grant of authority shall be liberally construed, and the enumeration of powers hereinafter made shall not be deemed to restrict such grant" (p. 5, l. 8 to 10). In default, however, of any indication as to the extent of the power granted, outside of the enumeration, it is doubtful whether the power would extend beyond the enumerated matters.

The powers enumerated include, using different language, substantially those given by the O'Brian amendment, with the following differences:

The general power to regulate the local affairs and property of the city is not given.

The general power to regulate the transaction of the city's business is not given in terms.

Instead of the power to regulate the incurring of the city's obligations, the more limited power is given to regulate "The issuance of bonds or other evidence of municipal indebtedness, subject to the restrictions prescribed in Article VIII, Section 2, of the constitution" (p. 7, l. 17 to 19).

Power to regulate, acquire or operate public utilities is expressly excluded (p. 9, l. 11 to 15).

On the other hand, the following matters which are not in express terms mentioned in the O'Brian amendment are expressly included in the enumeration.

Among the city officers and employees to be provided for and regulated by the charter are included police and health officers and employees and non-judicial officers and employees attached to courts not of record (p. 5, l. 20 to 22). These are doubtless included by implication in the O'Brian amendment.

"Any matter pertaining to education" subject to the laws which the legislature retains power to enact, as stated below (p. 6, l. 17 to 19).

"All matters pertaining to the nomination and election of city officers"; provided, however, that no such election shall be held on the general election day in an even-numbered year (p. 6, l. 20 to 23). The provisions of Section 3 as to the election of municipal officers are not applicable to home rule cities, whether their charters make provision on this subject or not (p. 5, l. 1 to 5). This power is not included in the O'Brian amendment, but is included in the Franchot amendment, Int. 331.

"The purposes for which, and the manner in which, the power of eminent domain may be exercised within the limits of the city" (p. 7, l. 1 to 3). As to acquisition of property by the city, this is included in the O'Brian amendment.

"The exercise of such power of taxation as may be delegated by the legislature to all home rule cities without classification; provided, however, that any such charter may, until the scope of the taxing power of such cities shall be determined by the legislature, provide for the exercise of such power of taxation, including the power to impose license taxes, as the city may possess when this constitution shall take effect" (p. 7, l. 10 to 16).

"The grant of jurisdiction to the courts in respect to any matter that is made the subject of regulation by such charter," but not to establish a new court (p. 3, l. 3 to 7).

"The manner in which territory may be annexed to or separated from the city," but a majority vote of electors in territory to be annexed is required (p. 8, l. 13 to 17).

The method of preparing a charter is expressly provided. The mayor is empowered to appoint a charter commission in such number as he may deem advisable (p. 10, l. 10 to 12). No power is given the people of the city or to any other officers to decide in the case of an original charter whether it shall be drafted.

After the charter is drafted, the ordinance-making authority is to provide for its adequate publication and for its submission, together with any alternative provisions, to the voters of the city at a general or special election not less than 60 nor more than 120 days after the charter is filed with the mayor (p. 10, l. 15 to p. 11, l. 2).

The charter is to be adopted by vote of a majority of those voting thereon (p. 11, l. 3 to 6).

Home rule charters are to be filed with the secretary of state who shall keep them as public records and publish them as an appendix to the session laws (p. 11, l. 10 to 17).

Amendments to home rule charters, or subsequent charters, are to be prepared and adopted as provided in the original charter, and in the absence of such provision, as provided by the legislature "by a law applicable to all home rule cities without classification"; but every amendment or new charter must be adopted by a majority of the electors voting thereon, and if a charter commission or convention is elected, it must be by non-partisan ballot (p. 8, l. 23 to p. 9, l. 11). This would make it possible for an original charter to make its own amendment extremely difficult; and no other way of amending it could be provided.

There is no express provision permitting the delegation by a home rule charter of the ordinance-making power.

The effect of a home rule charter is to "supersede the provisions of its (the city's) existing charter, and of any existing general or special law regulating matters pertaining to the government of the city, whether such matters shall or shall not have been made the subject of control by such charter," except matters expressly reserved to the legislature or expressly withheld from the city, and except that the city may by reference make applicable the provisions of any general law or any general city law (p. 9, l. 20 to p. 10, l. 9). Under this provision, the charter would supersede provisions "pertaining to the government of the city," but in view of the present language of section 2, there retained, it would apparently not supersede provisions pertaining to the property or affairs of the city, although inconsistent with provision on those matters lawfully contained in the charter. On the other hand, all provisions pertaining to the government of the city would be superseded, though no provision on the subject be contained in the charter; this would compel the people of a city to adopt a charter at the risk of being entirely without law on any such subject, provision for which had been omitted either inadvertently or in reliance on existing general laws of the state.

B. and C. The existing classification of cities is replaced by a new division into two classes—those which have not adopted home rule charters, called "legislative charter cities," and those which have, called "home rule cities" (p. 2, l. 12 to 23). (The matter at page 2, lines 18 to 26, is new and should be italicized.)

Legislative charter cities remain subject to legislative control. With respect to special city laws, which are defined as laws relating to less than all such cities, the present suspensive veto is retained, except that it is to be exercised in all such cities by the mayor without concurrence of the local legislative body, and a special city law can be passed over his veto only by vote of two thirds of the members elected to each house of the legislature (p. 2, l. 26 to p. 4, l. 10). As at present, a law which relates to all "legislative charter cities" is not a special city law, and is not subject to the suspensive veto, even though it operates differently in different cities.

With respect to home rule cities, the provision is: "Except as otherwise specifically provided * * * the legislature shall enact no law relating to the government or affairs of home rule cities" (p. 10, l. 7 to 9). This would seem to leave the legislature free to pass any law relating to the property of such cities. So far as the government or affairs of such cities is concerned, it would seem to abolish the legislative power entirely, except in the cases otherwise provided for, which are as follows:

The legislature retains unlimited power by any form of law to regulate conditions of employment by a city or its contractors or sub-contractors, the present provision being re-enacted" (p. 6, l. 2 to 9).

The legislature may, by "laws of general application throughout the entire state" regulate the police power (p. 7, l. 23 to p. 8, l. 2). Whether these laws must be uniform throughout the state is not expressed.

The legislature may, but only in the absence of charter provision, regulate by "the general election laws of the state" (whether or not special or local in their application) matters pertaining to the nomination and election of city officers (p. 6, l. 23 to 25).

The legislature may, by "a law applicable to all the cities of the state, without classification" (but not necessarily operating uniformly in all cities),

provide for approval of municipal civil service rules by a state commission (p. 5, l. 23 to p. 6, l. 2).

The legislature may delegate "to all home rule cities without classification" such powers of taxation as it sees fit (p. 7, l. 10 and 11).

The legislature shall, "by a law applicable to all home rule cities without classification" (but not necessarily operating uniformly in all such cities), provide for the adjustment of property and obligations in case of annexation or separation of territory (p. 8, l. 17 to 22).

The legislature shall, by a law of the same kind, but only in the absence of charter provision, provide for the manner in which the charters of home rule cities may be amended or new charters framed or adopted, subject to the restrictions mentioned above on like provisions in a home rule charter (p. 8, l. 24 to p. 9, l. 11).

The legislature may, by any form of law, general or special, but in the case of special city laws subject to the same suspensive veto as in the case of legislative charter cities, regulate all matters pertaining to educate other than the organization of a department of education and the number, terms of office and compensation of all officers and employees of such department (p. 6, l. 10 to 17); the purposes for which and the manner in which property may be acquired and the power of eminent domain exercised without the limits of the city (p. 7, l. 3 to 9); establish inferior courts in cities (p. 8, l. 7 to 12); and regulate by law the exercise by a city of the power to regulate the operation of public utilities or to acquire, construct, operate or lease any public utility (p. 9, l. 12 to 19). The suspensive veto does not extend to any law which applies to all home rule cities, however unevenly it operates as between them.

There is no general reservation of power in the state legislature; the state legislature cannot exercise any power relating to the government or affairs of home rule cities, unless it is included in the foregoing specific enumeration.

D. The power of the legislature to restrict cities with respect to taxation, borrowing money, etc., is repealed (p. 1, l. 3 to 8), leaving home rule cities subject only to such regulation as is specified above.

The power of the legislature to regulate conditions of employment is retained, as stated above.

E. Counties within cities are not brought under the amendment, except that a home rule charter may deal with all officers or employees of any such county to the same extent as with city officers and employees (p. 5, l. 18 to 20).

Villages are given no power; but it is provided that "The legislature shall enact no special law relating to villages, but shall provide by a general law without classification for the incorporation, organization, and government of villages (p. 2, l. 3 to 6).

The legislature is required "by a general law" to regulate the manner in which villages having a certain population may elect to become organized as a city under general city laws, or under a home rule charter (p. 2, l. 6 to 12).

The annexation and separation of territory is to be provided for by home rule charters; adjustment of property and debt to be by legislative act, as stated above.

This proposal gives general and also specific powers somewhat different from the other proposals; it has a fair self-executing provision: it fails, however, to allow the legislature to pass uniform city laws.

10. LOW, Int. 313, Pr. 535.

A. This grants to each city "full and exclusive power from time to time to adopt and amend laws relating to" a specific list of subjects (p. 4, l. 24 to 26).

The grant is "subject to the provisions of this constitution, and of general laws of uniform application for the government of the state at large or of all the counties or of all cities thereof" (p. 4, l. 22 to 24).

No rule of liberal construction is laid down, and the powers granted would, therefore, be restricted to the subjects specifically enumerated.

The subjects which may be regulated by local laws fall far short of those usually embraced in a city charter. They are:

- the powers, duties, mode of selection, terms of office and compensation of all officers or employees of the city;
- the transaction of its business;
- the incurring, funding or refunding of its obligations;
- the acquisition, the disposition, and the care or management of its property and of all public institutions therein (other than state institutions). (p. 4, l. 26 to p. 5, l. 6.)

Of the powers given by the O'Brien amendment, the following are withheld from regulation by local laws:

- the local affairs and property of the city (except as already indicated);
- the presentation, ascertainment and discharge of claims against it;
- the acquisition, care, management and use of its streets (unless they are deemed to be included in the city's property) and of public utilities;
- the police power.

Without the local police power, a considerable part, at least, of which is usually included even in the ordinance-making power, a city can have but a small degree of local self government. The framers of the amendment apparently appreciated this, for this power was included in the enumerated list of the first print (Pr. 317); but it was omitted in the amended print (Pr. 535), perhaps because of the danger, pointed out below, to the power of the state involved in any broad grant of exclusive power to cities.

The power of making local laws, if effective at all, would not authorize a city to adopt a complete charter, because of the narrow range of subjects over which it extends, but would enable it, at most, to amend its existing charter in the particulars named.

No method of preparing local laws is provided, and the provision will be ineffective unless and until the legislature acts, and then only to the extent and in the manner permitted by the legislature. The amendment concludes with the declaration that "The provisions of this section shall be self-executing" (p. 5, l. 6 and 7); but obviously they are not self-executing in the absence of provision of means and methods of carrying them into execution. A grant of power to a city, an abstract entity, is of no effect, unless the people of the city or some regularly constituted authority is vested by law with its execution. If, in an attempt to read into the provisions something not there expressed, which might efface the declared intent to make it self-executing, it should be held that the power is vested in the existing executive or legislative authority of the city, the result would be to give these

officials unrestricted control over their own powers and salaries, without control by the people of the city.

There is no express provision for the delegation of the ordinance-making power; and this is in contrast with the expressed power of delegation given in the case of counties (p. 2, l. 4 and 5).

The effect of local laws when adopted is not stated. The right to adopt them is subject to uniform city laws; but it is not stated what effect their enactment shall have on existing laws not of this character; and in the absence of any prohibition of special legislation in future, it would seem that such legislation hereafter adopted may repeal or amend local municipal laws, expressly or by implication.

B. and C. There is no general restriction on the powers of the legislature, except as one may be implied from the grant to cities of "full and exclusive power" to adopt laws on the subjects enumerated. The withholding of power of legislation from the legislature of a state by implication, without express prohibition, is novel, and it may be doubted whether it would be effective. If it is effective, the legislature is excluded entirely from regulating any of the subjects enumerated otherwise than by uniform city law.

The doubt as to the effectiveness of such an implied restriction upon legislative powers is heightened by the presence in the same amendment of an express prohibition with respect to cities hereafter incorporated, in the following language: "The legislature may incorporate cities and villages, but the powers, duties and provisions relating to the government and affairs of any city or village so incorporated shall be governed only by general laws of uniform application to all cities or all villages, respectively" (p. 4, l. 14 to 18). This prohibition would seem to extend only to cities "so incorporated," i. e., under this new power; and with respect to them it would extend only to laws governing their government and affairs, not to laws governing their property.

The existing classification of cities is abolished (p. 4, l. 19 and 20), so that in so far as there is no effective requirement of uniformity, the legislature is free to adopt any classification it pleases, without the check of the suspensive veto.

A further specific restriction is that all acts of the legislature for carrying out the provisions of Article X, section 2, regarding the local election or appointment of all local officers (the so-called home rule provision), must be uniform city laws (p. 3, l. 19 to 22).

Laws regulating conditions of employment must be "general laws only," but need not be uniform or even applicable to all cities (p. 2, l. 24).

D. The present provision empowering the legislature to restrict the power of taxation, borrowing money, etc., and to fix conditions of employment, are repealed (p. 4, l. 3 to 14). In the place of the latter power is substituted a new provision authorizing the legislature to provide "by general laws only" for the protection, welfare and safety of persons employed by any city, or by a contractor or sub-contractor with the city, but not to fix their compensation or their hours of work or labor. With reference to the present powers not covered by the substitute clause, the legislature is absolutely free to act; or else, if the grant to cities of "full and exclusive power" over certain subjects is effective as a restriction upon the legislature, the legislature cannot restrict otherwise than by uniform city laws any of the matters now expressly committed to it by Article XII, section 1, so

far as they are included in the enumeration of powers granted to cities. These matters would seem to include the compensation of all officers and employees of the city and the incurring of its obligations.

E. Counties lying wholly within a city are not made part of the city, but all counties are given the same power of local legislation as are cities (p. 4, l. 22 to 26).

A method of exercising the power is, however, indicated in the case of counties, and with respect to counties the provision is made self-executing, as follows: "The powers of local legislation, government and administration conferred by this constitution on a county shall vest in such board of supervisors or the legislative body of the said city, or in such county authorities or body as such board or legislative body may determine, subject only to such laws as the legislature may enact of general and uniform application to all counties of the state" (p. 2, l. 1 to 7). This vests in existing boards of supervisors power over their own powers and salaries and those of other county officers, free from control by the people of the county, and subject only to control by uniform county laws passed by the legislature.

This also confers power of delegation, which is not expressly given to cities.

The same restrictions applying to legislative acts concerning counties as in the case of legislative acts concerning cities. The provisions last quoted, however, would seem to make effective as to all counties, an express prohibition of other than uniform county laws.

Apparent exceptions to this requirement of uniformity are the provisions that the legislature may "by general laws" (which are not necessarily uniform laws), confer additional powers on county officers, and especially on county auditors or other fiscal officers (p. 2, l. 10 to 20). The necessity of retaining the provision regarding county auditors does not seem apparent, since this subject would seem to be covered by the general provision.

Villages are granted no powers; but all the express restrictions on the powers of the legislature with regard to cities are applicable to legislation regarding villages also (p. 4, l. 14 to 18; p. 2, l. 24, to p. 3, l. 3; p. 3, l. 19 to 22).

No provision is made for annexation or separation of territory.

This proposal gives cities too narrow powers, omitting among others the right to adopt a charter, and contains no general grant of power.

11. E. N. SMITH, Int. 511, Pr. 523.

A. Cities are granted "full powers of local self-government" (p. 2, l. 4 to 9). This broad language is, however, limited not only by the power reserved in the legislature, but also by the specification immediately following, whereby each city "to that end may * * * pass local laws" on specific matters (p. 2, l. 9 and 10).

The power is "subject to this constitution and to the general laws enacted or to be enacted by the legislature applicable to all the cities of the state and to the power of the legislature to enact laws as to the organization and the form of government thereof" (p. 2, l. 4 to 8). The power granted is therefore subject to all legislation, general or special, as to "the organization and the form of government" of the city, and to general legislation applicable to all the cities, but not necessarily uniform, concerning all other matters embraced within the power granted.

The absence of any rule of liberal construction makes it more probable that the power of cities would be confined to the specific matters enumerated.

These are:

the government of the city;

the administration of its property and affairs (p. 2, l. 10 and 11).

This enumeration is susceptible of an interpretation which would confine it to the organization structure and functions of the city government, and would exclude any local police power or other power to regulate matters of local concern dealing with substantive law as distinct from the form of government. It can hardly be taken as equivalent to the power to adopt a charter.

The method of adopting such laws is by a two-thirds vote of all the members of the local legislative body without any control by the people (p. 2, l. 9 and 10). This feature would further tend to require a strict construction of the extent of the power granted; to allow a charter to be adopted by one of the instrumentalities under it would seem anomalous.

The effect of local laws when adopted is to "repeal or amend any existing special law in so far as it is inconsistent therewith" (p. 2, l. 12 and 13). A "special law" in this connection is one which in terms applies only to one specific city, and no other laws could be affected by a local law even though otherwise within the power granted. Local laws would also be subject to future special laws "as to the organization and the form of government thereof," as stated above. Inasmuch as little if anything beyond this is granted to cities, it follows that almost if not quite all subjects of local legislation could still be controlled by special laws overriding the local laws on the subject.

B. and C. The restriction is: "Excepting as in this section provided the legislature shall pass no special law affecting a city" (p. 2, l. 16 and 17). This does not prohibit a law, general in terms but operating only in one city, nor a law applicable to a class containing only two cities. Furthermore, the exceptions are so broad as practically to destroy the restriction.

It is made the duty of the legislature, not only, as now, to provide for the organization of cities, but also to "prescribe the organization of government thereof" (p. 1, l. 5). Laws "as to the organization and the form of government thereof" are subject to no restrictions, but may be general or special, and will supersede local laws (p. 2, l. 6 to 8). All other laws concerning the city's "government and the administration of its property and affairs" must be "general laws * * * applicable to all the cities of the state," but need not be uniform (p. 2, l. 4 to 11).

The present classification of cities is retained, together with the suspensive veto.

D. The present provisions of Article XII section 1, which empower the legislature to restrict the power of taxation, borrowing money, etc., and to regulate conditions of employment are repealed; but these matters remain subject to regulation by the legislature as stated above.

E. Counties lying wholly within cities are not brought under the amendment. On the contrary, cities are expressly prohibited from passing any law affecting the government of any county located therein (p. 2, l. 13 to 16).

Villages are not affected.

No provision is made for the annexation or separation of territory.

This proposal gives the cities too narrow powers, omitting among others that of charter-making; it permits the legislature to overrule

local laws by general statutes even though they are not uniform in their application and even by special laws if dealing with the form of government of cities.

12. MANN, Int. 265, Pr. 268.

A. This contains the following grant of power: "The compensation of all public officials within the civil service paid wholly out of the treasury of any civil division of the state shall be fixed solely by the lawful authorities of such civil division without interference by the legislature" (p. 2, l. 1 to 4).

B. The only provision other than that quoted above, is as follows:

"Nor shall the fixed compensation of any other public official (i. e., other than state officials) elected for and within any civil division of the state be increased or diminished during the time for which he shall have been elected" (p. 1, l. 10 to 12).

This proposal merely gives any civil division of the state the sole right to regulate wages of civil service employees whom it pays.

13. WIGGINS, Int. 314, Pr. 318.

A. This gives no power over city affairs, but deals only with counties wholly within a city.

E. Article III, section 26, which provides that in a county lying wholly within a city the powers and duties of a board of supervisors may be devolved on the local legislative body, is amended so as to add the following: "Such legislative body, or in lieu thereof such city authorities as the legislature may prescribe, shall have exclusive power to fix the compensation of all county officers and employees, and the number of such employees, within the city, and to define their powers and duties, except as any such matter is otherwise provided for or defined in this constitution with respect to a particular officer" (p. 1, l. 10, and p. 2, l. 6).

A law relating to the property, affairs or government of a particular county wholly within a city is included in the definition of a special city law and made subject to the suspensive veto.

This deals solely with counties.

14. SANDERS, Int. 187, Pr. 187.

A. The power granted is to adopt such optional charters as the legislature may provide. The legislature is required to make such provision, as follows: "The legislature shall provide by general laws, optional plans of city or village government" (p. 2, l. 12 and 13). The provision, however, will not be effective unless and until the legislature acts.

The general nature of these plans is prescribed. They "shall each provide a governing board to be elected by the electors of such municipality having all the legislative powers delegated to such municipalities with or without a mayor or other chief executive officer having or not having veto power over the acts of such governing body and with or without an independent board of estimate and apportionment" (p. 2, l. 13 to 19). It is not clear whether, apart from the universal requirement of an elective governing board or legislative body, the other features may be inserted or omitted as the legislature sees fit, or whether it is intended that the legislature must offer to each city all of the alternatives specified.

Any optional plan may be submitted to the electors of the city on petition in such manner as the legislature shall direct by the general law which it is required to enact and is to be adopted by a majority of the votes cast for and against it (p. 3, l. 5 to 18).

A board ordinance-making power is provided by mandatory provision: "Such governing board shall have power to adopt, amend and repeal local laws not inconsistent with the general laws, to create such office not provided for by such plan and to grant to the holders thereof such powers as may be desirable for the efficient government of such municipality and to prescribe their powers and duties and provide for their appointment or election and to fix the compensation of all elected and appointed officers" (p. 2, l. 19 to 26). Any optional plan may provide for a referendum on ordinances (p. 2, l. 1 to p. 3, l. 5).

The effect of the adoption of such a plan is that upon the commencement of the term of the officers elected under it, it shall "become the plan of municipal government for such municipality" (p. 3, l. 17 to 21).

As to existing charters, it is provided that "every existing law affecting the municipal government of a city or incorporated village shall remain in full force and effect until the adoption of the plan as above provided and the commencement of the term of office of the officers elected thereunder" (p. 3, l. 21 to 25). If this means that all existing laws affecting the municipal government of the city are repealed by implication on the adoption of an optional plan, irrespective of whether they deal with a subject dealt with by the plan, the result will be that on all subjects not covered by the plan adopted, the city will be without law until new ordinances on the subject are adopted.

B. and C. It is provided that "the legislature shall not pass any special or local bill affecting the municipal government of a city or incorporated village" (p. 1, l. 10, to p. 2, l. 2); but this would not prevent the legislature from adopting such classification as it sees fit, so that a bill could operate only in one city; nor would it prevent a special or local bill relating to the city in any other matter than its municipal government, or dealing with its property or affairs.

The existing classification is retained, with the change that it requires a population of 200,000 to become a city of the first class (p. 4, l. 9 to 15); but the legislature is not required to legislate for these classes, nor is it prevented from adopting such other classification as it sees fit; and the suspensive veto is abolished (p. 4, l. 15, to p. 5, l. 26).

Another restriction on the legislative power is, that restrictions upon the power of taxation and borrowing money, etc., must be by "general laws applicable alike to all cities of one or more classes" (p. 1, l. 8 and 9). This presumably refers to the classes enumerated in section 2, but the restriction is not applicable to any other kind of local legislation.

The amendment contains substantially the existing provision that all municipal officers must be locally elected or appointed; and provides further that no officer or body not so elected or appointed shall "be vested with power or authority to sell, alienate, or in any manner dispose of its property or incur any obligations binding upon said city or village, or to exercise any power in respect to the matters relating to the property, affairs or government of such municipalities" (p. 2, l. 6 to 12).

D. The existing power to restrict cities with respect to taxation, borrowing money, etc., is retained, but must be exercised by laws uniform with

respect to the cities of a class (p. 1, l. 3, to p. 2, l. 2). The power to regulate conditions of employment is retained unchanged (p. 3, l. 25, to p. 4, l. 6).

E. Counties lying within cities are not affected.

Villages are treated in like manner as cities.

The organization of cities and villages is to be regulated by the legislature by laws uniformly applicable to all cities of a class or to all villages (p. 1, l. 3 to 10).

This proposal requires the legislature to present optional charters to cities without defining what powers should be given; and it permits the legislature to pass general laws as to local matters which need not be uniform in effect.

15. R. B. SMITH, Int. 254, Pr. 257.

A. No power is granted to cities by this or any of the following amendments.

This amendment empowers the legislature to "delegate to cities and incorporated villages such power of local legislation and administration, subject to the general laws of the state, as it may, from time to time, deem expedient" (p. 1, l. 5 to 8).

B. and C. There are no restrictions upon the power of the legislature.

This proposal merely gives the legislature power to grant cities such powers as it sees fit.

16. BARNES, Int. 315, Pr. 377.

B. This provides that the legislature shall not pass any bill on the following subjects:

"Amending the charter of any city of the state, except upon the written petition of the mayor and the common council, or similar authorities thereof, and upon the affirmative vote of a majority of the members of each house of the legislature representing such city in whole or in part.

"Amending the charter of any village of the state, except upon the written petition of the president and trustees thereof and the affirmative vote of the member or members of each house of the legislature representing said village" (p. 1, l. 4; p. 2, l. 4 to 12).

This proposal forbids the legislature to amend a city charter except on petition of mayor and council, and vote of legislative representatives of the city.

17. BARNES, Int. 567, Pr. 582.

B. This repeals Article III, section 18, prohibiting private or local bills in certain specified cases, and substitutes this general prohibition: "The legislature shall not pass any private or local bill, except as specifically herein provided" (p. 2, l. 9 and 10). This would still permit any classification which the legislature chooses to adopt.

This proposal forbids local bills.

18. GREEN, Int. 655, Pr. 671.

A. This amendment contains restrictions on legislative power which seem to be based upon an assumed power in the people of a city to exercise the power of home rule and to frame their own charter; but no such power is granted.

B. and C. It is made the duty of the legislature "to provide for the organization of cities and incorporated villages, and, before the submission of any charter to the voters of the locality affected, to pass, in approval or disapproval, as to their legality, upon the charters under which the aforesaid cities and villages seek incorporation" (p. 3, l. 20 to 25). No power is, however, granted to the people of the cities or to any local authority to submit a charter or "seek incorporation." This is all subject to the action of the legislature. Nor is there any provision that a charter approved as to legality by the legislature and adopted by the voters of the city shall have the force of law. Consequently the only effect that can be given to this provision is that the legislature may enact charters, but that before they take effect they must be adopted by vote of the people of the city.

A corresponding provision is that the charters of cities shall not be amended or changed except upon the majority vote of the electors of the city (p. 4, l. 4 to 7).

It is further provided that "the legislature, except to the extent necessary to preserve the basic authority of the state, shall not have power to interfere with the properly constituted authorities, elected by the people, or appointed under the terms of charters as aforesaid; nor to prevent the free operation of the principle of home rule" (p. 3, l. 25, to p. 4, l. 4); but as "the principle of home rule" is not defined, and as the extent of power to be granted by city charters to local authorities is not prescribed, the restriction is too indefinite to be effective.

It is further provided that no elected officer shall be removed during his term by the legislature nor by any state officer except for moral obliquity (p. 4, l. 7 to 10).

The present classification of cities is abolished (p. 2, l. 5 to p. 3, l. 20), and the power is reserved to the legislature to pass "general laws applicable to cities, towns and villages as classes of incorporated entities and not as to cities of first, second or third class" (p. 4, l. 15 to 18), which would apparently permit the legislature to adopt any classification it pleases.

L. It is provided that "the legislature may in a general act define the limitations of the powers of cities and incorporated villages and may generally restrict" their powers of taxation, borrowing money, etc. (p. 4, l. 10 to 15). The power to regulate conditions of employment must be exercised by "general laws only" (p. 1, l. 8). Both of these limitations would permit legislative classification.

E. Counties within cities are not affected.

Villages are treated in like manner as cities.

This proposal is badly drawn; it requires the legislature to submit charters to vote of the people of cities but fails to define what local powers must be granted; and the legislature is left free to adopt any classification of cities it desires and pass general laws as to them.

19. BALDWIN, Int. 451, Pr. 463.

B. This reads as follows: "The legislature shall not enact any laws requiring any city, county, town or village to pay any monies, specific or otherwise, for any purpose or to pay any specified salary to any person who is paid in the first instance out of the treasury of the city, county, town or village, respectively; but the legislature may fix the maximum salary or salaries that may be paid to any such person or persons."

20. WICKERSHAM, Int. 624, Pr. 640.

B. This prohibits a private or local bill for certain purposes, including bills "incorporating or amending charters of cities or villages" unless presented by petition of persons interested nor until after publication and hearing in a manner provided in some detail, other details being left to the legislature to establish.

21. LOW, Int. 625, Pr. 641.

B. This provides that the boundaries of a county, city, town or village shall not be altered without the consent of a majority of the electors voting thereon in each municipality affected.

22. MANN, Int. 373, Pr. 380.

B. This makes bills relating to the counties in Greater New York subject to the suspensive veto.

23. OSTRANDER, Int. 568, Pr. 583.

B. This strikes out of Article XII, section 2, the provision whereby a special city bill shall be returned with the mayor's certificate to the governor if the legislature has adjourned. The effect of this is doubtful. If it makes any change in the law at all it would seem to prevent a city from accepting such a bill after adjournment of the legislature.

24. BERRI, Int. 676, Pr. 693.

B. This provides: "No mandatory act relating to the appropriation or expenditure of city monies passed by the legislature, affecting any city or class of cities shall become effective until it shall have been approved by the mayor or mayors of the cities affected."

25. GRIFFIN, Int. 250, Pr. 253.

This provides that the legislative power of the state, vested in the legislature, "shall not be delegated or surrendered, except to the people." This would probably prevent the delegation of local legislative power to localities, unless "the people" were held to include the people of the respective localities. It would seem to prevent the grant of the local ordinance-making power.

INDEX TO PROPOSALS

	PAGE
BALDWIN, Pr. 463.....	35
BARNES, Pr. 377.....	34
BARNES, Pr. 582.....	34
BERRI, Pr. 693.....	36
COBB, Pr. 698.....	3, 5, 6, 8, 21
EISNER, Pr. 568.....	3, 5, 6, 7, 9, 18
FOBES, Pr. 709.....	3, 5, 8, 22
FRANCHOT, Pr. 335.....	3, 4, 5, 6, 7, 9, 11, 15
FRANCHOT, Pr. 678.....	3, 5, 6, 7, 9, 24
GREEN, Pr. 671.....	8, 34
GRIFFIN, Pr. 253.....	36
LOW, Pr. 535.....	3, 6, 9, 28
LOW, Pr. 641.....	36
MANN, Pr. 268.....	32
MANN, Pr. 380.....	36
MANN, Pr. 381.....	3, 5, 8, 17
O'BRIAN, Pr. 283.....	3, 4, 5, 6, 7, 9, 11, 12
OSTRANDER, Pr. 583.....	36
SANDER, Pr. 187.....	5, 8, 32
SMITH, E. N., Pr. 523.....	3, 8, 30
SMITH, R. B., Pr. 257.....	34
WAGNER, Pr. 68.....	3, 5, 6, 8, 22
WEED, Pr. 629.....	3, 5, 6, 8, 20
WIGGINS, Pr. 318.....	32
WICKERSHAM, Pr. 640.....	36

NOTE: The highest page number refers to the digest and analysis of proposal in the appendix; the other page numbers refer to discussion and classification of proposals in the brief.

THE CITIZENS UNION

A Union of Citizens, Without Regard to Party,
for the Purpose of Securing the Honest
and Efficient Government of the
City of New York.

OFFICERS:

WM. JAY SCHIEFFELIN	. . .	Chairman
JULIUS HENRY COHEN	}	Vice Chairmen
WILLIAM W. NILES		
PERCIVAL KÜHNE	. . .	Treasurer
W. E. YOUKER	. . .	Secretary

41 Park Row, New York City
80 Howard Street, Albany

4

END OF
TITLE